



Legislation Text

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TITLE:

ZONING APPLICATION 22-22 TO AMEND A PREVIOUSLY-APPROVED CONDITIONAL USE PERMIT (PA-17-17) TO DEVIATE FROM SHARED PARKING REQUIREMENTS AND ALLOW AN ACCESSORY TASTING AREA IN AN EXISTING HOME-BREWING SUPPLY AND SPECIALTY BEER AND WINE STORE (WINDSOR HOMEBREW SUPPLY) IN THE C1 ZONE FOR PROPERTY AT 743 BAKER STREET, SUITES D AND E

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTED BY: Patrick Achis, Assistant Planner

CONTACT INFORMATION: Patrick Achis, 714.754.5276, Patrick.Achis@costamesaca.gov

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a Resolution to:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) Section 15301 (Class 1) Existing Facilities; and
2. Approve Zoning Application 22-22 and making a finding of public convenience or necessity for the issuance of a Type 42 (On-Sale Beer and Wine - Public Premises) ABC license, subject to conditions of approval.

APPLICANT OR AUTHORIZED AGENT:

The Applicant is Scott Windsor of Windsor Homebrew Supply Company, for the property owners, Boris Pirihi and Jacob Logar.

BACKGROUND:

The project site is located within a commercial center on the southeast corner of Baker Street and Randolph Avenue. The property is zoned C1 (Local Business), and has a General Plan land use designation of GC (General Commercial). Physical on-site improvements include two multi-tenant commercial buildings (eight tenants total) with 77 parking spaces, and two points of vehicular ingress/egress (one on Baker Street and one on Randolph Avenue). The existing operation occupies a 2,240-square-foot tenant space, located in the northwest multi-tenant building. Other commercial tenants in the center include restaurants, retail, a bar, and offices.

Surrounding land uses include residences located on Baker Street to the north, a retail center (The

Camp) to the east, a restaurant to the south, and a gas station and hair salon across Randolph Avenue to the west.

On May 22, 2017, the applicant obtained Planning Commission approval of PA-17-07 for a conditional use permit to modify the operations of an existing home-brewing supply store (Windsor Homebrew Supply) to allow the sale of beer and wine for off-premise consumption. The business conducts a monthly class as allowed under PA-17-07. The existing tenant space is an open floor plan with various shelving and refrigerator units for beer and wine bottles and home-brewing equipment, as well as a storage room and restrooms. The staff report for Conditional Use Permit No. PA-17-07 is provided at the following link:

<https://ftp.costamesaca.gov/costamesaca/planningcommission/agenda/2017/2017-05-22/PH-2.pdf>

DESCRIPTION:

Proposed Use

Windsor Homebrew Supply proposes the following changes to their existing permitted operations, amending PA-17-07.

- **Operate a 476-Square-Foot Accessory Tasting Area** within the existing tenant space. The purpose of the accessory tasting area is to educate customers about the beer-making process and sample different beers/wines before product purchase. If approved, the applicant intends to acquire a Type 42 (On-Sale Beer and Wine - Public Premises) license through the California Department of Alcoholic Beverage Control (ABC), in addition to its existing Type 20 off-sale license.
- **Deviate from Parking Requirements** based on offset hours of operation with other on-site uses.
- **Amend Existing Hours of Operations** to allow extended business hours Monday through Friday from 10 a.m. to 7 p.m. daily. Existing hours of operation are Monday through Friday, 10 AM - 4 PM, and Saturday and Sunday, 10 AM - 6 PM.
- **Modify Classes** to occur up to twice a month Monday to Thursday. Home-brewing classes are currently held once a month on Sundays.

For full details on the proposed project, please see the Applicant's Project Description, provided as "Attachment No. 2." Project plans are available as "Attachment No. 7." Table 1 below provides a summary of existing and proposed operations.

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Table 1 - Existing and Proposed Operations

	Existing (PA-17-07)	Proposed
Use	Homebrewing supply store with off-sale beer and wine	Same as existing with new accessory tasting area for on-site consumption of beer and wine.
ABC License Type	Type 20 (Off-Sale)	Same as existing with Type 42 License (On-Sale Beer and Wine – Public Premises)
Classes	Permitted once-a-month and only on a Sunday. Maximum of 15 attendees.	Permitted up to twice a month and only Monday to Thursday. Maximum of 15 attendees.
Hours of Operation	10 a.m. to 4 p.m. Monday to Friday, 10 a.m. to 6 p.m. Saturday and Sunday	10 a.m. to 7 p.m., daily

ANALYSIS:***Conditional Use Permit Amendment Required***

The applicant proposes to develop and operate a 467-square-foot accessory tasting area within the existing home-brewing and specialty beer and wine store. Within the C1 Zoning District, the proposed tasting area is permitted by right subject to zoning code compliance. However, the project requires a minor conditional use permit to deviate from parking requirements in order to operate. In addition, pursuant to current conditions of approval, the existing use permit must be amended to allow the proposed operational modifications. Specifically, PA-17-07 conditions that “any changes to the business’s use or operational characteristics must be approved by the Planning Commission in the form of an amendment to the existing use permit”. Pursuant to the CMMC, the approval or amendment of a CUP requires that the decision-making body make specific findings related to neighborhood compatibility, health and safety, and land use compatibility. The analysis regarding CUP findings is provided later in this report. Lastly, staff has drafted specific conditions of approval, included in the Resolution, to ensure site-specific land use compatibility.

Public Convenience or Necessity (PCN) Determination Required

The PCN determination is a process established by the Department of Alcoholic Beverage Control (ABC) that allows local jurisdictions to support or reject an application for off-sale and on-sale alcoholic beverage licenses in census tracts with an "undue concentration" of ABC licenses. ABC defines an "undue concentration" of off-sale or on-sale alcoholic beverage licenses as the following:

- The ratio of off-sale or on-sale retail licenses to population within the census tract exceeds the ratio of licenses to population in the county as a whole; or
- An area that is located in a crime-reporting district has a 20 percent or greater number of reported crimes than the City average.

Pursuant to Section 23958.4 of the Business and Professions Code (BPC), the governing body of a local jurisdiction (e.g. City Council) has the authority to determine PCN findings. The City Council also has the authority to delegate the determination of PCN findings related to ABC licenses to a designated subordinate officer or body. City Council Policy 500-8 allows the Planning Commission to make findings of public convenience or necessity as required for liquor license transactions that require approval of a CUP.

The proposed tasting area will require issuance of a Type 42 - On Sale Beer and Wine - Public Premises license from the ABC. As indicated above, State law limits the issuance of ABC licenses when a business requests this type of license for a property located in a police-reporting district with a crime rate above the City average, or when there is an over-concentration in the number of ABC licenses within a census tract. Within the subject census tract, there are 7 on-sale licenses allowed and 42 existing. However, the law also states that ABC can waive this restriction if the local jurisdiction makes a determination that the proposed license would serve a "public convenience or necessity." The property at 743 Baker Street is located in Census Tract Number 639.08, and it is over-concentrated with regard to on-sale and off-sale alcoholic beverage licenses. Therefore, the proposed use requires a determination of "public convenience or necessity" in order to be approved by ABC. Establishments with current on-sale retail licenses within Census Tract Number 639.08 may be referenced in "Attachment No. 8."

Staff believes that the requested license would serve a convenience or necessity to the customers seeking home-brewing products and specialty beer and wine, and recommends Planning Commission approval of the request. Lastly, the project was reviewed by the Costa Mesa Police Department and the Department determined that the area did not have a crime rate above average, and no other issues related to the issuance of the alcohol license were identified or anticipated.

Tasting Area

The 476-square-foot tasting area is proposed within the existing retail floor area and would be separated from the existing sales area by a permanent barrier (as required by the ABC). The barrier consists of a 40-inch high stanchion-type partition. Except for the installation of the permanent barrier, rearranging of existing displays and the installation of a tasting bar area with five seats and two stand-up tables, no further tenant improvements are proposed.

As described in the applicant's letter, the tasting area is intended to allow customers to sample products before purchase, and to educate interested customers about the beer making process. The tasting will occur during the normal business operating hours and there will be a charge for product sampling. The applicant indicates that the business will be staffed by two to three employees to operate both the retail sale and the tasting areas. The last service to customers in the tasting area would occur no later than 6:30 p.m. The applicant has operated a similar establishment with a tasting component in Anaheim for the last several years and will operate similarly to those tasting operations provided in larger stores such as Beverages and More (BevMo) and Whole Foods, which do not operate as traditional bars. No distilled spirits ("hard alcohol") will be sold or sampled. Additionally, no brewing of alcohol will occur on-site. Condition of Approval No. 2, limits the number of occupants within the tasting area to a maximum of 15 persons at any time, and that the retail portion of the business (including tasting) cannot operate during class hours. The project complies with all applicable development standards of CMMC Section 13-49 (Development standards for establishments within two hundred feet of residentially-zoned property), including hours of operation.

Parking

Nonconforming Parking

The eight tenants at the subject property share a total of 77 surface parking spaces. See below Table 2 for the existing tenant mix at the property and hours of operation, which demonstrates site uses with varying operating hours/days. While the project proposes an intensification of the use by adding a tasting area which has a higher parking requirement than a retail store, the staggered hours of operation and shared-parking analysis demonstrate sufficient parking would be provided. The shared parking analysis is further described in the following section.

Table 2 - Existing Tenant Mix On-Site

Unit	Tenant	Size	Hours of Operation		Use
743 Baker					
A & B	Rhodium Smoke Shop	3,080 square feet	Daily	8 a.m. - 12 a.m., daily	Retail
C	T and H Salon	1,120 square feet	Wednesday to Saturday	9 a.m. - 7 pm,	Retail
D & E	Windsor Homebrew (Subject Tenant)	2,240 square feet	Monday – Saturday Sunday	10 a.m. - 4 p.m., 12 – 5 p.m. (10 a.m. to 7 p.m. Proposed)	Retail
735 Baker					
A	Farmers Insurance	545 square feet	Weekdays	8:30 a.m. - 5:30 p.m.	Office
B	Ramen Zetton	725 square feet	Tuesday to Saturday	6 p.m. to 10 p.m.	Restaurant
C	Ikko Japanese	816 square feet	Wednesday to Sunday	5:30 p.m. - 7:30 p.m.	Restaurant
D	Dolphin Hair Design	408 square feet	Tuesday - Saturday	10 a.m.- 7 p.m.	Retail
741 Baker					
	The Huddle	3,441 square feet	Daily	8 a.m. - 2 a.m.	Bar

Shared Parking Calculation

Pursuant to the Costa Mesa Municipal Code (CMMC) Section 13-6, a "mixed-use development" is defined as "the development of lot(s) or structure(s) with two (2) or more different land uses such as, but not limited to a combination of residential, office, manufacturing, retail, public, or entertainment in a single or physically integrated group of structures." The proposed site includes a variety of different land uses and is therefore considered a "mixed-use development." The CMMC Table 13-89 specifies that shared parking standards shall be applied for mixed use developments (instead of the City's base parking standards), and that a reduction in parking for mixed-use developments beyond the shared parking standards may be approved by minor conditional use permit (MCUP) where it can be demonstrated that less parking is needed due to the hours of operation or other unusual features of the users involved. In this case, an unusual feature exists in that the tasting area is accessory to the retail establishment. Additionally, the tasting area does not operate as a traditional bar and is not intended as an eating and drinking destination. For these reasons, staff's shared parking analysis

applies the restaurant parking rate for the 467-square-foot tasting area rather than the entire “gross floor area.” The remainder of the retail space is parked at the standard retail parking rate.

The shared parking demand calculation is included as “Attachment No. 6” of this report. Because the applicant is requesting approval of a use with greater parking demand than provided on-site, a shared parking demand study was completed to evaluate site parking conditions. Specifically, the intention of the study was to evaluate if any parking surplus is available and at what times.

The shared parking demand calculation concludes that during the project’s daily hours of operation (10 a.m. to 7 p.m.), on-site parking is sufficient to support the anticipated demand based on the proposed use modifications. Based on the shared parking demand calculations, the maximum peak demand for the site is 76 spaces on weekdays from 6 p.m. to 7 p.m. Refer to Table 3, Parking Analysis Summary. Overall, a surplus of one to five spaces is expected during project operations.

Table 3 - Shared Parking Analysis Summary

Windsor Homebrew Hours	Shared Parking Required During Peak Hours	Parking Provided
<u>Monday – Friday</u> 10 a.m. 7 p.m.	76 spaces ³	77 spaces
<u>Saturday – Sunday</u> 10 a.m. 7 p.m.	72 spaces ⁴	77 spaces

If parking shortages or other parking related problems develop, the business operator will be required to institute appropriate operational measures necessary to minimize or eliminate the problem including, but not limited to, reducing the number of customers, reduce class sizes, reduce the amount of classes, securing additional offsite parking, and/or other measures deemed appropriate by the Development Services Director.

GENERAL PLAN CONFORMANCE:

The Costa Mesa General Plan establishes the long-range planning and policy direction that guides change and preserves the qualities that define the community. The 2015-2035 General Plan sets forth the vision for Costa Mesa for the next two decades. This vision focuses on protecting and enhancing Costa Mesa’s diverse residential neighborhoods, accommodating an array of businesses that both serve local needs and attract regional and international spending, and continuing to provide cultural, educational, social, and recreational amenities that contribute to the quality of life in the community. Over the long term, General Plan implementation will ensure that development decisions and improvements to public and private infrastructure are consistent with the goals, objectives and policies contained in this Plan. The following analysis evaluates the proposed project’s consistency with applicable policies and objectives of the 2015-2035 General Plan.

- 1. Policy LU-1.1:** Provide for the development of a mix and balance of housing opportunities, commercial goods and services, and employment opportunities in consideration of the needs of the business and residential segments of the community.

Consistency: The project will provide an economic opportunity and allow residents and

visitors to enjoy an experiential service (product tasting) that specifically compliments the specialty beer and wine retail operations of the existing Costa Mesa business.

2. **Policy LU-6.7:** Encourage new and retain existing businesses that provide local shopping and services.

Consistency: The proposed project would encourage the retention of an existing established retail store within the City, thus encouraging the long-term productivity and viability of the community's economic base. The proposed project would expand an existing successful local land use, which contributes to the City's tax base and ultimately preserves the City's long-term fiscal health.

3. **Policy LU-6.7:** Encourage new and retain existing businesses that provide local shopping and services.

Consistency: The project will provide economic opportunity for a local business, and allow residents and visitors to enjoy the tasting area.

4. **Policy LU-3.1:** Protect existing stabilized residential neighborhoods, including mobile home parks (and manufactured housing parks), from the encroachment of incompatible or potentially disruptive land uses and/or activities.

Consistency: The project has been designed to ensure that potential conflicts with the closest residential land uses are minimized. Surrounding land uses are compatible with the project including the office, salons, restaurants, and bar.

JUSTIFICATIONS FOR APPROVAL:

Pursuant to Title 13, Section 13-29(g)(2), Conditional Use Permit Findings, of the Costa Mesa Municipal Code, in order to approve the project, the Planning Commission must find that the evidence presented in the administrative record demonstrates that the proposed project substantially meets specified findings. Staff recommends approval of the request, based on the following assessment of facts and findings, which are also reflected in the draft resolution.

1. *The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.*

Staff believes that the proposed sale of alcoholic beverages for on and off-site consumption would not adversely affect the surrounding land uses or the growth and development of the area as the property is located in a commercial area, and the hours of operation are limited from 10 a.m. to 7 p.m. Further, the tasting area will be separated from the rest of the retail store. Lastly, the staggered hours of operation for the uses in the center based on the shared parking calculation shows adequate parking would be provided on-site. There are no project impacts to neighboring residential uses due to the limited hours of operation, availability of parking, and all operations will be conducted indoors. Further, the project complies with all applicable development standards of CMMC Section 13-49 for eating and drinking

establishments within two hundred feet of residentially-zoned property, including hours of operation.

2. Granting the conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

As part of the conversion of a portion of retail space to the tasting area, the applicant is required to obtain Health Department approval prior to operating and will be required to comply with the ABC and the California Building Code to ensure the safety and welfare of customers and employees within the establishment. The project also includes conditions of approval to ensure that potential health and safety conflicts are minimized to the greatest extent possible. Although the establishment is located approximately 50 feet from residential units across Baker Avenue to the north, the building is oriented southward and hours of operation conclude by 7 p.m. with tasting ending at 6:30 p.m.

3. Granting the conditional use permit or minor conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation and any applicable specific plan for the property.

Granting the conditional use permit will not allow a use, density or intensity, which is not in accordance with the general plan designation. The project is a complementary use to the area, including the adjacent residential uses, and as conditioned, the tasting area does not generate noise or parking impacts unusual for a commercially-zoned property, and the current retail operations (which are essentially the same as proposed) do not adversely affect the surrounding uses. Lastly, the proposed project is consistent with applicable policies and objectives of the 2015-2035 General Plan as previously described in this report.

ENVIRONMENTAL DETERMINATION:

The project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities).

The Class 1 exemption applies to minor alterations to existing facilities or structures involving negligible or no expansion of the existing use. The project falls within this exemption because it involves minor interior alterations and the change of use is negligible. The project will have little or no impact on the surrounding area. The project involves tenant improvements to convert an existing portion of retail space into a 467-square-foot accessory tasting area. There will be no resulting increase in the existing floor area of the tenant space and the shared parking analysis shows adequate parking is available.

ALTERNATIVES:

The Planning Commission has the following alternatives:

1. Approve the project. The Planning Commission may approve the project as proposed, subject to the conditions outlined in the attached Resolution.
2. Approve the project with modifications. The Planning Commission may suggest specific

changes that are necessary to alleviate concerns. If any of the additional requested changes are substantial, the item should be continued to a future meeting to allow a redesign and/or additional analysis. In the event of significant modifications to the proposal, staff will return with a revised Resolution incorporating new findings and/or conditions.

3. **Deny the project.** If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission must deny the application, provide facts in support of denial, and direct staff to incorporate the findings for denial into a Resolution for denial. If the project were denied, the applicant could not submit substantially the same type of application for at least six months.

LEGAL REVIEW:

The draft resolution has been reviewed and approved as to form by the City Attorney's Office.

PUBLIC NOTICE:

Pursuant to Title 13, Section 13-29(d), of the Costa Mesa Municipal Code, three types of public notification have been completed no less than 10 days prior to the date of the public hearing:

1. Mailed notice. A public notice was mailed to all property owners and occupants within a 500-foot radius of the project sites. The required notice radius is measured from the external boundaries of the property. (See attached Notification Radius Map.)
2. On-site posting. A public notice was posted on the street frontage of the project sites.
3. Newspaper publication. A public notice was published once in the Daily Pilot newspaper.

As of the date of this report's publishing, no public comments have been received. Any public comments received prior to the September 26, 2022 Planning Commission meeting will be provided separately to the Planning Commission.

CONCLUSION:

The proposed tasting area is a reasonable and consistent land use modification to the existing establishment that sells home-brewing equipment and ingredients and specialty beer and wine. The project complies with the City's Zoning Code, General Plan, and compliance with the Conditions of Approval will further minimize any adverse impacts to surrounding properties. Staff recommends approval of Planning Application ZA-22-22, subject to conditions of approval.